

purchase Excess Market Hogs in excess of the difference between the annual production quantity for the finishing units as set forth in Section 1.01 above, and the fiscal year quantity set forth above.

- (iii) As set forth in Section 11.01 below, Seller shall not be relieved of its obligation to deliver and sell Market Hogs to Buyer, in the quantity set forth above, for any reason that does not constitute a Force Majeure Event. If any event occurs, which may possibly affect Seller's obligation to deliver and sell Market Hogs in the quantity set forth above and which is not a Force Majeure Event, then Seller shall give Buyer prompt written notice describing such event and Seller's plan to remedy such event. In addition, any failure of Seller to deliver and sell Market Hogs to Buyer, in the fiscal year quantity set forth above, shall be a material default under this Contract.

ARTICLE 4 – QUALITY

Section 4.01

- (a) **Market Hogs.** For purposes of this Contract, the term "Market Hog" shall mean hogs meeting the specifications in this Contract, including, without limitation, those set forth on Exhibit A hereto.
- (b) **Additional Covenants.** Seller covenants and warrants as follows:
 - (i) **pH.** The pH for each load of Market Hogs shall meet or exceed the plant average (with respect to the plant to which the Market Hogs are delivered). In addition, in the event that Buyer establishes a "standard pH" (as defined below) for Market Hogs, then each load of Market Hogs shall also meet or exceed such "standard pH." The "standard pH" shall mean the "Base" pH set forth from time to time in Buyer's "Carcass Merit Buying Matrix" existing from time to time as described in Section 8.01. Buyer may revise such "standard pH" from time to time. Buyer shall give Seller thirty (30) days notice prior to establishing or revising such "standard pH." Buyer may, in its discretion, determine pH by testing carcass' on a random basis or by testing each individual carcass.
 - (ii) **Weight.** Seller shall use its best effort to achieve live weight of 255 pounds per Market Hog. Each load shall average 240 to 270 pounds live weight per Market Hog, except for close-out loads on finishing buildings (which shall average 230 to 270 pounds live weight per Market Hog). A close-out load shall be the last load of Market Hogs from a finishing building, with each finishing building limited to a maximum of 1 close-out load in a 20 week period, and each close-out load shall be identified by Seller to Buyer on the Thursday prior to the week of shipment. Each